

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EMILY GELLATLY and CEARA NARIO-REDMOND, individually and on behalf of all others similarly situated,

Plaintiffs,

V.

DDR Corp.,

Defendant.

Civil Action No. 1:17-cv-00147 (BJR)

ORDER GRANTING DEFENDANTS' MOTION TO STAY

This matter comes before the Court on a motion by defendant, DDR Corp for a stay of this action pending a decision by the Third Circuit Court of Appeals in the case of *Mielo v. Steak N' Shake Operations, Inc.*, Case No. 2:15-cv-180-RCM (W.D. Pa.), Case No. 17-2678 (3d Cir.). Plaintiffs oppose the Defendant's request for a stay. Having reviewed the briefs of the parties together with the authorities cited therein, the Court will GRANT Defendant's motion. The Court's reasoning follows:

The Court is persuaded that the issue presented in the *Mielo* appeal, whether section 36.211 of the ADA requires ongoing maintenance of parking facilities, is the crux of Plaintiffs' claims in this case. There is no question that the decision of the appellate court on this issue goes directly to the allegations in Plaintiffs' complaint.

Furthermore, it is clear to the Court that the discovery Plaintiffs would pursue in this matter in order to establish a basis for their class action will be extremely burdensome and costly and

1 should not be pursued until the legal viability of Plaintiffs' claims has been reviewed and
2 determined in the pending appeal.

3 In addition, in determining whether or not to exercise the Court's inherent power to stay
4 an action, the Court may consider the burden on the Court and the parties in terms of time and
5 effort. There are presently at least two motions already filed by the parties. Several more,
6 including a motion for class certification, are anticipated. Requiring the Court to rule on these
7 motions when there is an appeal pending that might reshape the issues presented appears to be an
8 inefficient use of the efforts of the Court and the parties.
9

10 Therefore, having reviewed the factors presented by the parties, the Court hereby GRANTS
11 Defendants' motion for a stay.

- 12 • This matter is STAYED until such time as the Third Circuit Court of Appeals renders
13 its decision in *Mielo v. Steak N' Shake Operations, Inc.*
14 • Defendant's pending motion to transfer venue (ECF 39), and motion to dismiss and to
15 strike plaintiffs' class allegations (ECF 27) are stricken with leave to refile once the
16 stay is lifted.
17

18 **SO ORDERED.**

19
20 Dated this 16th day of January, 2018.

21
22
23
24
25



Barbara Jacobs Rothstein
U.S. District Court Judge